

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Broker License of:

No. 10F-BD151-SBD

3 **CAPP MORTGAGE, L.L.C. and**  
4 **LAWRENCE V. CAPPELLETTI, MEMBER**  
20402 North 17th Place  
Phoenix, AZ 85024

**ORDER OF SUMMARY SUSPENSION  
AND NOTICE OF OPPORTUNITY FOR  
HEARING**

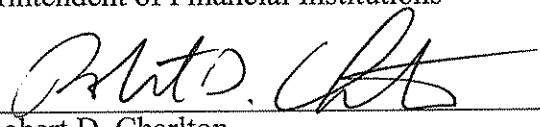
5  
6 Respondents.

7 The Arizona Department of Financial Institutions (the "Department") hereby finds that Capp  
8 Mortgage, L.L.C. and Lawrence V. Cappelletti, Member, ("Respondents") have violated the  
9 provisions of the Arizona Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the  
10 public health, safety and welfare require emergency action pursuant to A.R.S. §§ 6-905 and 41-  
11 1092.11(B).

12 **THEREFORE, IT IS ORDERED** to summarily suspend the Arizona mortgage broker  
13 license held by Respondents. **This suspension is effective immediately.**

14 EFFECTIVE this 12th day of May, 2010.

15 Lauren W. Kingry  
16 Superintendent of Financial Institutions

17 By   
18 Robert D. Charlton  
Assistant Superintendent of Financial Institutions

19  
20 PLEASE TAKE NOTICE that, pursuant to Titles 6 and 41 of the Arizona Revised Statutes  
21 and Title 20, Chapter 4 of the Arizona Administrative Code ("A.A.C."), Respondents are hereby  
22 notified that they are entitled to a hearing to contest the allegations set forth in this Order. The  
23 Request for Hearing shall be filed with the Arizona Department of Financial Institutions (the  
24 "Department") pursuant to A.R.S. § 6-137(D) within **thirty (30) days** of service of this Order and  
25 shall identify with specificity the action or order for which review is sought in accordance with  
26 A.R.S. § 41-1092.03(B).

1 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or  
2 her own behalf or by counsel. If Respondents are represented by counsel, the information required  
3 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a  
4 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for  
5 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**  
6 **reasonable accommodations such as interpreters, alternative formats, or assistance with**  
7 **physical accessibility.** Requests for special accommodations must be made as early as possible to  
8 allow time to arrange the accommodations. If accommodations are required, call the Office of  
9 Administrative Hearings at (602) 542-9826.

10 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.  
11 § 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled  
12 hearing. The conference will be held within **fifteen (15) days** after receipt of your request. If an  
13 Informal Settlement Conference is requested, a person with the authority to act on behalf of the  
14 Department will be present (the "Department Representative"). Please note that in requesting an  
15 Informal Settlement Conference, Respondents waive any right to object to the participation of the  
16 Department Representative in the final administrative decision of this matter, if it is not settled. In  
17 addition, any written or oral statement made by Respondents at such informal settlement conference,  
18 including written documentation created or expressed solely for purposes of settlement negotiations,  
19 are inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules  
20 regarding informal settlement conferences.) Conversely, any written or oral statement made by  
21 Respondents outside an Informal Settlement Conference is not barred from being admitted by the  
22 Department in any subsequent hearing.

23 If Respondents do not request a hearing, this Order shall become final. If Respondents  
24 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the  
25 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the  
26 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time

1 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,  
2 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-  
3 132; (3) the suspension or revocation of Respondent's license pursuant to A.R.S. § 6-905; (4) an  
4 order to pay restitution of any fees earned on loans made in violation of A.R.S. §§ 6-901, *et seq.*,  
5 pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and (5) an order or any other remedy necessary or  
6 proper for the enforcement of statutes and rules regulating mortgage brokers pursuant to A.R.S. §§  
7 6-123 and 6-131.

### 8 FINDINGS

9 1. Respondent Capp Mortgage, L.L.C. is an Arizona Limited Liability Company  
10 authorized to transact business in Arizona as a mortgage broker, license number MB 0905429,  
11 within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of Capp Mortgage, L.L.C.'s business is  
12 that of making, negotiating, or offering to make or negotiate loans secured by Arizona real property,  
13 within the meaning of A.R.S. § 6-901(11).

14 2. Pursuant to A.R.S. § 6-903(J), Respondents are required to have a surety bond in the  
15 amount set forth in A.R.S. § 6-903(K), or an alternative as set forth in A.R.S. § 6-903(M).

16 3. On February 1, 2010, the Department received notification from Hartford Fire  
17 Insurance Company stating that Capp Mortgage, L.L.C.'s surety bond, number 59BSBCC0081 in  
18 the amount of \$15,000.00, was to be cancelled effective March 5, 2010.

19 4. On February 16, 2010, the Department sent an email to Respondents, to the email  
20 address on record with the Department, informing them of the bond cancellation. The Department  
21 also sent notification regarding the bond cancellation to Capp Mortgage, L.L.C. via the Nationwide  
22 Mortgage License System.

23 5. Respondents failed to provide documentation regarding the reinstatement of their  
24 bond or documentation of a new surety bond.

25 6. Respondents do not have the required surety bond in order to conduct business as a  
26 mortgage broker.

7. The conduct described above constitutes an immediate threat to the public health, safety, and welfare warranting immediate suspension of Respondent's mortgage broker license.

8. The conduct described above constitutes grounds for the suspension of Respondent's mortgage broker license.

**LAW**

1. Pursuant to A.R.S. Title 6, Chapter 9, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage broker business and with the enforcement of statutes, rules, and regulations relating to mortgage brokers.

2. By the conduct set forth in the Findings, Respondents have failed to maintain the surety bond required by A.R.S § 6-903(J).

3. Pursuant to A.R.S. §§ 6-905 and 41-1092.11(B), the conduct described above constitutes an immediate threat to the public health, safety and welfare warranting immediate suspension of Respondent's mortgage broker license.

4. Respondents have not conducted business in accordance with the law and have violated Title 6, Chapter 9, which constitutes grounds for the suspension or revocation of Respondent's license pursuant to A.R.S. § 6-905(A)(3).

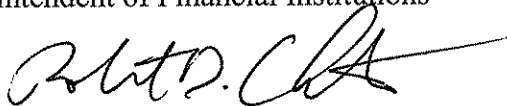
5. The violations, set forth above, constitute grounds for the pursuit of any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

6. Pursuant to A.R.S. § 6-132, Respondent's violations of the aforementioned statutes are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day.

WHEREFORE, if Respondents do not request a hearing to contest the above Findings or produce evidence of a valid surety bond, Respondent's license shall remain suspended unless and until reinstated or until said license expires by operation of law.

1 DATED this 12th day of May, 2010.

2 Lauren W. Kingry  
3 Superintendent of Financial Institutions

4 By   
5 Robert D. Charlton  
6 Assistant Superintendent of Financial Institutions

7 ORIGINAL of the foregoing filed this 12th  
8 day of May, 2010, in the office of:

9 Lauren W. Kingry  
10 Superintendent of Financial Institutions  
11 Arizona Department of Financial Institutions  
12 ATTN: Susan Longo  
13 2910 N. 44th Street, Suite 310  
14 Phoenix, AZ 85018

15 COPY mailed/delivered same date to:

16 Craig A. Raby  
17 Assistant Attorney General  
18 Attorney General's Office  
19 1275 West Washington  
20 Phoenix, AZ 85007

21 Richard Fergus, Licensing Division Manager  
22 Robert D. Charlton, Assistant Superintendent  
23 Arizona Department of Financial Institutions  
24 2910 N. 44th Street, Suite 310  
25 Phoenix, AZ 85018

26 AND COPY MAILED SAME DATE, by  
Certified Mail, Return Receipt Requested to:

Capp Mortgage, L.L.C.  
Attention: Lawrence V. Cappelletti, Member  
20402 North 17th Place  
Phoenix, AZ 85024  
Respondent

St. Service Co., Statutory Agent  
Capp Mortgage, L.L.C.  
4250 N. Drinkwater Blvd., 4<sup>th</sup> Floor  
Scottsdale, AZ 85251

By: 